

LINK:

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No.	CV 15-09011-BRO (AFMx)	Date	January 27, 2016
Title	ABRAHAM VALENTIN ET AL. V. ROBERT JACKSON ET AL.		

Present: The Honorable **BEVERLY REID O’CONNELL, United States District Judge**

Renee A. Fisher

Not Present

N/A

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS)

**ORDER TO SHOW CAUSE RE DEFENDANTS’
POSITION ON PLAINTIFFS’ MOTION FOR LEAVE
TO FILE A SECOND AMENDED COMPLAINT**

Pending before the Court is Robert Jackson and California Highway Patrol’s (“Defendants”) Motion to Dismiss Abraham Valentin, Alejandro Francisco Peralta, Michael Dominguez, and Frank Margarito Escobido’s (collectively, “Plaintiffs”) First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 10.) Defendants’ Motion noticed a hearing date of February 1, 2016. (*See id.*) Thus, under Central District Local Rule 7-9,¹ Plaintiffs’ opposition, if any, was due no later than January 11, 2016. On January 11, 2016, in lieu of an opposition, Plaintiffs filed a Motion for Leave to File a Second Amended Complaint.² (Dkt. No. 12.) To date, Plaintiffs have not filed an opposition.

In Plaintiffs’ Motion for Leave to File a Second Amended Complaint, Plaintiffs state that “some of defense counsel’s arguments [in the Motion to Dismiss] may be compelling.” (Mot. for Leave at 4.) Plaintiffs also state that “counsel for the respective

¹ Local Rule 7-9 provides that a party must file an opposition no later than twenty-one (21) days prior to the hearing date. *See* C.D. Cal. L.R. 7-9.

² The Court notes that under Central District Local Rule 6-1, a Notice of Motion must be filed with the Clerk and served on the opposing party no later than twenty-eight (28) days prior to the date set for hearing. *See* C.D. Cal. L.R. 6-1. Plaintiffs’ filed their Motion for Leave to File a Second Amended Complaint on January 11, 2016 and noticed a hearing date of February 1, 2016. Thus, Plaintiffs’ Motion was untimely filed with respect to the noticed hearing date.

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parties have further met and conferred regarding a potential motion to dismiss contemplated by defense,” and that “[t]he parties, through their respective counsel, have agreed that an extension of time for the filing of a Second Amended Complaint is in the best interest of the parties and the efficient administration of justice.” (*Id.*) On January 26, 2016, Plaintiffs filed a Supplement to Defendants’ Motion to Dismiss First Amended Complaint. (Dkt. No. 14.) Plaintiffs state that “counsel have met and conferred,” and that Defendants’ counsel “is not authorized to sign a stipulation granting [Defendants’] motion to dismiss and agreeing that the attached SAC be filed . . . unless the allegation that [D]efendant Jackson was acting in an official capacity is stricken.” (Suppl. at 2.) Plaintiffs indicate they are unwilling to do so. (*See id.*) Finally, Plaintiffs request the Court to grant Defendants’ Motion to Dismiss and allow Plaintiffs to file the proposed Second Amended Complaint. (*Id.*)

In light of the procedural events discussed above, Defendants are **ORDERED TO SHOW CAUSE** regarding their position on (1) Plaintiffs’ Motion for Leave to File a Second Amended Complaint and (2) Plaintiffs’ request that the Court grant Defendants’ Motion to Dismiss with leave to amend and deem Plaintiffs’ proposed Second Amended Complaint filed. Defendants shall file their response to this Order no later than Monday, February 1, 2016, at 12:00 p.m. Defendants shall also reply to Plaintiffs’ Motion for Leave to File a Second Amended Complaint by Friday, February 5, 2016, at 12:00 p.m. The hearing set for February 1, 2016, is hereby **VACATED** and rescheduled for Monday, February 8, at 1:30 p.m.

IT IS SO ORDERED.

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